

Notice of Allowability

Application No.

09/599,002

Examiner

Diana B. Johannsen

Applicant(s)

NYLAND ET AL.

Art Unit

1634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☐ This communication is responsive to the RCE and Amendment filed 30 December 2003 and the Interview of 22 March 2004.
2. ☒ The allowed claim(s) is/are 37-74.
3. ☒ The drawings filed on 22 June 2000 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), 2 Paper No./Mail Date part of 0304.
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

EXAMINER'S AMENDMENT

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 30, 2003 has been entered.
2. Applicant's Amendment filed December 30, 2003 canceled claims 15, 17-32, and 36, such that claims 1-36 are now canceled. It is noted that, in view of the cancellation of claims 15, 17-32, and 36, the rejections of and objections to those claims set forth in the Final Rejection of July 30, 2003 are now moot. Applicant's amendment of December 30, 2003 also added new claims 37-74, which claims are now allowed, subject to the Examiner's amendment set forth below.
3. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Gordon Kit on March 22, 2004.
4. In accordance with 37 C.F.R. 1.126, allowed claims 37-74 will be renumbered as claims 1-38, respectively (see MPEP 608.01(j)). It is noted that original claim numbers are employed in the below examiner's amendment.

5. The application has been amended as follows:

a) Amend the claims as follows:

In claim 37, line 5, delete "determined genotype" and insert therefore—genotype determined in step (a)--.

In claim 38, line 3, after "test human subject;" insert—and--.

In claim 38, line 4, delete "(b)" and insert therefore—(b1)--.

In claim 38, line 5, delete "determined genotype" and insert therefore—genotype determined in step (a)--.

In claim 38, line 5, after "NA1/NA1;" delete "and" and insert therefore—or--.

In claim 38, line 6, delete "(c)" and insert therefore—(b2)--.

In claim 38, line 7, delete "determined genotype" and insert therefore—genotype determined in step (a)--.

In claim 39, line 5, delete "determined genotype" and insert therefore—genotype determined in step (a)--.

In claim 40, lines 4-5, delete "cardiovascular disease, atherosclerosis or non-immune related cerebrovascular disease" and insert therefore—a non-immune-related disease wherein the non-immune-related disease is cardiovascular disease, atherosclerosis or cerebrovascular disease"

In claim 40, at lines 5-6, delete "determined genotype" and insert therefore—genotype determined in step (a)--.

In claim 41, line 5, delete "determined genotype" and insert therefore—genotype determined in step (a)--.

In claim 47, lines 1-2, delete "the presence of said genetic marker for susceptibility to myasthenia gravis is found" and insert therefore—said genetic marker for susceptibility to myasthenia gravis is present".

In claim 55, lines 1-2, delete "the presence of said genetic marker for susceptibility to myasthenia gravis is found" and insert therefore—said genetic marker for susceptibility to diabetes mellitus is present".

In claim 59, lines 3-4, delete "cardiovascular disease, atherosclerosis or non-immune related cerebrovascular disease" and insert therefore—said non-immune-related disease--.

In claim 61, line 3, delete "cardiovascular disease, atherosclerosis or non-immune related cerebrovascular disease" and insert therefore—said non-immune-related disease--.

In claim 62, line 4, delete "cardiovascular disease, atherosclerosis or non-immune related cerebrovascular disease" and insert therefore—said non-immune-related disease--.

In claim 63, lines 1-2, delete "the presence of said genetic marker for susceptibility to myasthenia gravis is found" and insert therefore—said genetic marker for susceptibility to said non-immune-related disease is present".

In claim 63, line 5, delete "cardiovascular disease, atherosclerosis or non-immune related cerebrovascular disease" and insert therefore—said non-immune-related disease--.

Art Unit: 1634

In claim 65, lines 1-2, delete "cardiovascular disease, atherosclerosis or non-immune related cerebrovascular disease" and insert therefore—said non-immune-related disease--.

In claim 71, lines 1-2, delete "the presence of said genetic marker for susceptibility to myasthenia gravis is found" and insert therefore—said genetic marker for susceptibility to Addison's disease is present".

b) Amend the specification as follows:

On page 11, at line 21, delete "QIAamp" and insert therefore—QIAAMP--.

On page 11, at line 30, delete "Eppendorf" and insert therefore—EPPENDORF--.

Substance of the Interview of March 11, 2004

6. The examiner contacted Applicant's representative and proposed amendments to new claims 37-74 that would place the application in condition for allowance. The examiner noted that the majority of the amendments were intended to overcome remaining issues of indefiniteness. Regarding claim 40 and claims dependent therefrom, the examiner noted that the proposed amendments were further intended to overcome a new matter issue, by amending the claims so as to employ terminology actually used on page 2 of the specification. The examiner also proposed capitalizing 2 trademarks present in the specification. Applicant's representative indicated that he would contact the Applicant and then contact the examiner with a response.

Substance of the Interview of March 22, 2004

7. Applicant's representative contacted the examiner, and additional minor modifications in claim language were discussed. Agreement was reached, and claims 37-74 are allowed.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Diana B. Johannsen whose telephone number is 571/272-0744. The examiner can normally be reached on Monday-Friday, 7:30 am-4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, W. Gary Jones can be reached at 571/272-0745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 1634

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Diana B. Johannsen", followed by a long horizontal line extending to the right.

Diana B. Johannsen
Patent Examiner
March 22, 2004